

CHARTER COMMISSION
COMMITTEE ON STYLE MEETING
CITY AND COUNTY OF HONOLULU

TUESDAY, MAY 22, 2006
CITY COUNCIL COMMITTEE ROOM
SECOND FLOOR, HONOLULU HALE
4:00 P.M.

MINUTES

Committee Members Present:

Jared Kawashima
Donn Takaki
Jeffrey T. Mikulina
Darolyn Lendio

Committee Members Absent

Jerry Coffee – Excused
James Pacopac – Excused
Malcolm Tom - Excused

Others Present:

Chuck Narikiyo, Executive Administrator, Charter Commission
Diane Kawauchi, Deputy Corporation Counsel, Department of the Corporation Counsel
Lori K. K. Sunakoda, Deputy Corporation Counsel, Department of Corporation Counsel
Dawn Spurlin, Deputy Corporation Counsel, Department of Corporation Counsel
Loretta Ho, Secretary, Charter Commission
Nicole Love, Researcher, Charter Commission

1. Call to Order

Committee Chair Jared Kawashima called the meeting to order at 4:09 p.m. on May 22, 2006. Chair Kawashima explained the process of the meeting and went over housekeeping rules and stated that testimony will be limited to three minutes and must be related to the agenda.

2. Executive Administrator's Report

Executive Administrator Chuck Narikiyo gave an overview of the meeting. The Committee was here to go through the actual charter amendment language for the proposals that have been approved. He explained that of the 18 proposals that have been approved, 17 came with Ramseyer format language. With regard to the 18th, number 55, Corporation Counsel did a rough draft of some language in Ramseyer format for the Committee to use as a starting point for discussions. The hope for today was to come to an agreement as to the final Ramseyer language for all proposals, which will be presented to the full commission for review and approval at the June meeting.

The Executive Administrator mentioned some related issues. First, as for the ballot questions and order of items for the ballot, the drafting of the actual ballot questions and determination of the order on the ballot is for this Committee. This can be done in a meeting in July, with a report presented to the full Commission in August. This is what is currently reflected in the calendar approved by the Commission at the April 4 meeting, but he wanted to refresh the Committee's recollection on this if anyone has a concern as we go forward. Second is the drafting of the voter education materials. The Commission is required to publish a "digest" of the proposed amendments in the newspaper, and also plan a voter education mailing for all voting households, which in the past has included "pro" and "con" language and an explanation of the proposals. These tasks are for the Submission and Information Committee under the rules and calendar, but because they involve some drafting, the Executive Administrator wanted to bring them to the Committee's attention.

3. Discussion and Action on Proposed Charter Amendments:

PROPOSAL 1 - Salary Commission; Amend provision regarding Council review of Commission findings.

The following individuals testified:

1. Tom Heinrich

Written testimony:
NONE

Tom Heinrich suggested in section 3-122 subsection 2, where he sees what would be taken out from this in the second to last paragraph, it would still start the sentence "Said resolution". He think in the interest of style and modernization it would be easier to say and when looking at the rest of the paragraph to simply say "The resolution" because they are only referring to one. He goes on to say when the Commission does have the opportunity to replace such old language of "said", "such" those types of things that the language be appropriately stylistic modernized. So for this instance the last sentence would then say; "The resolution shall be forward to the mayor and the council." Which would be more consistent with the rest of the proposal but as they present it on the ballot, he feels it would be more useful to use the language as spoken today as compared to the old style drafting of many years ago.

ACTION:

FIRST MOTION: Commissioner Lendio moved to amend the language of Proposal 1 to modernize the language from "Said resolution" to "The resolution" as indicated by the public testimony received today. Commissioner Takaki seconded that motion. Discussion followed.

Executive Administrator Narikiyo for clarification noted that he sees the word "said" appears twice in line three and line eight, and asked if the motion was to change both of

those references. Commissioner Lendio responded if they are going to embark on changing it, and it's not just one change, it might be more difficult as there are many other charter provisions that use "said." She noted that she would not like to be inconsistent. She asked if that is what this Commission is supposed to do. Deputy Corporation Counsel Kawauchi responded there is a concern if they do isolated revisions that then sometime later that may be construed as an indication of some different terminology. She stated if the Commissioners were not interested in doing a consistent change throughout the charter, perhaps the recommendation would be to leave it as it is. Commissioner Lendio commented doing it piecemeal, maybe the Commission should have thought of it before and just had the voters on the Commission modernizing the charter by updating the language and the Corporation Counsel could have met with the Commission to modernize the language. She feels that would be the proper to do the changes if they were to do a full-scale modernization of the language in the charter. Commissioner Lendio goes on to say they could still vote on the motion but her inclination is to vote no at this point; if they are going to modernize the entire charter then they should do it properly. Deputy Corporation Counsel Kawauchi responded that there could be a recommendation from this Commission to the City Council in the Commission's final report to modernize and update the language.

Commissioner Mikulina commented he tends to agree but looking at how the Legislature has done it, it seems every time they change a new section, they change all the old English to new English. Commissioner Lendio noted that she thinks the statutory changes on the HRS would be entirely cumbersome for anyone to do and it would probably take a couple of years to do that so they probably opted to do it piece mea. She thinks the Charter would take time but she thinks someone could do it. She goes on to say she feels the proper procedure would be to have a charter amendment passed to allow a full-scale change to modernize the language of the charter. Deputy Corporation Counsel Spurlin responded she believes in 1998 there was a charter proposal authorizing the Corporation Counsel to update the charter as to the reorganization. Deputy Corporation Counsel Spurlin noted they went through the charter and updated that part through a charter proposal. Chair Kawauchi clarified it was only with respect to the reorganization. Deputy Corporation Counsel Spurlin responded yes.

AYES: NONE
NOES: KAWASHIMA, TAKAKI, MIKULINA, LENDIO - 4
EXCUSED: COFFEE, PACOPAC, TOM

MOTION FAILED

SECOND MOTION: Chair Takaki moved to approved the language of Proposal 1. Commissioner Lendio seconded that motion. Discussion followed.

Chair Takaki asked Corporation Counsel for their opinion on the language of the proposal. Deputy Corporation Counsel Kawauchi responded they have no legal issue to rise to the Committee. Chair Takaki explained the intent of the proposal that after the Salary Commission comes forward with their recommendations the inform the mayor and the council shortly thereafter so that the mayor and the council has up to 60 calendar days to vote "yay" or "nay" on the recommendations. Commissioner Mikulina

asked if that does not need to be spelled out? Chair Takaki responded the proposal says it goes into effect 60 after adopted by the Salary Commission unless rejected. The Salary Commission could adopt their report and not forward on their report and findings until 59 days after they adopted their report. Deputy Corporation Counsel Kawauchi noted earlier in the section it indicates that the resolution has to be submitted no later than May 1. Deputy Corporation Counsel Kawauchi also noted this proposal is taking away any opportunity for the Council to reject. So what's going to happen is the recommendation must take effect upon the action of the Salary Commission. Commissioner Takaki asked Deputy Corporation Counsel Kawauchi if it would be the first day of the fiscal year subsequent to adoption. Deputy Corporation Counsel Kawauchi responded in the affirmative. Commissioner Takaki then asked if it would still need to be forwarded to the mayor and the council for the budget purposes? Commissioner Mikulina asked a follow-up to Commissioner Takaki's question is that clear? Do they need to say comma not for action but for information purposes. When forwarded to the council do they automatically act on the matter because clearly before that's what they did, they received it and acted upon it. Deputy Corporation Counsel Kawauchi responded the first sentence of the section indicates to be effective prospective from the first day of the fiscal year.

AYES: KAWASHIMA, TAKAKI, MIKULINA, LENDIO - 4
NOES: NONE
EXCUSED: COFFEE, PACOPAC, TOM

MOTION PASSED

PROPOSAL 5 - Elections; Eliminate the first special election when there are only two candidates for an office.

The following individuals testified:

1. Tom Heinrich

Written testimony:

NONE

Tom Heinrich suggested in relation to modernization the attention to potential language. He noted in early January on Proposal 79 regarding technical non-substantive amendments and providing improved annotations, which the Commission decided to put as part of their report and not as a proposal. Mr. Heinrich suggest the discussion the Committee had in the previous proposal regarding modernizing certain language that it be done within the next two years or sooner by Corporation Counsel and that that comment also be included in the Commission's report that the suggestion of the Charter Commission through Corporation Council to assist City Council on its next review of any charter proposal. He noted that was a procedural comment. Mr. Heinrich suggest to change for purposes of consist style, as the proposal as it appears on the website, the proposed subsection "C" under section three line four; which reads "the first special election for that office he or she shall be deemed". He suggests "he or she" be replaced with "that candidate".

ACTION:

Commissioner Lendio moved to approve the language as presented for Proposal 5
Commissioner Takaki seconded that motion. Discussion followed

Commissioner Lendio asked Corporation Counsel's comments on Mr. Heinrich's suggestion. Chair Kawashima reiterated Mr. Heinrich suggestion. Deputy Corporation Counsel Kawauchi responded she would suggest that and would support that recommendation. She noted they do have other comments.

Deputy Corporation Counsel Spurlin commented there is language stating the "highest number of votes for the office, the majority of votes cast" and suggest they would like the language to be consistent. They would like the language to say the vote "cast" because it's unclear and it's used sometimes and it's not used other times. Commissioner Lendio asked Deputy Corporation Counsel Spurlin where is she suggesting the changes? Deputy Corporation Counsel Spurlin responded paragraph B the last sentence where it says, "At the second special election, the candidate receiving the highest number of votes **cast** for that office" and paragraph C the second to the last sentence, "candidates receiving the highest number of votes **cast** for that office" and the last two sentences on the next page, "At the second special election the candidate receiving the highest number of votes **cast** for that office shall be deemed elected". This would be consistent throughout the provision.

Commissioner Lendio noted she'd take all of those suggestions as a friendly amendment. Commissioner Mikulina seconded that motion.

Commissioner Takaki asked Corporation Counsel this is subsections of one, one a, b and c? Deputy Corporation Counsel Kawauchi responded that's how she understands the proposed revision to read. Commissioner Mikulina clarified that "Special Elections" would now be section two.

Commissioner Lendio called for the question and moved with the friendly amendments to approve, "that candidate" in the place of "he or she" in paragraph C, "votes cast" in paragraph B and "votes cast" twice in paragraph C. Commissioner Lendio asked to call for the votes.

AYES: KAWASHIMA, TAKAKI, MIKULINA, SULLIVAN – 4
NOES: NONE
EXCUSED: COFFEE, PACOPAC, TOM

MOTION PASSED

PROPOSAL 27 - Liquor Commission and Civil Service; Exempt Liquor Control Administrator and Deputy Administrator from civil service.

The following individuals testified:
NONE

Written testimony:

NONE

Chair Kawashima asked Corporation Counsel for any comments with respect to Proposal 27. Deputy Corporation Counsel Kawauchi responded she does not have any comments with respect to the text of the charter proposal but does have concerns with respect to the transition language but unfortunately she does not have the language to submit to the committee today but she will be working on it. The concern is with respect to the tenure of an incumbent in event this proposal is approved by electorate. She noted the incumbent civil service employee under her understanding of personnel law will be entitled to retain that position as an appointee unless the position description is significantly changed that it is no longer the same position. She stated the transition language needs to somehow reflect that because the transition language now provides that on June 30, 2007 that incumbent Administrator and First Deputy Corporation Counsel are to be terminated. Commissioner Lendio asked Deputy Corporation Counsel Kawauchi if she was asking the Committee to defer the proposal for another meeting. Deputy Corporation Counsel Kawauchi responded it is a really a legal concern and they would have an opportunity to propose language to address that after Style Committee. Commissioner Lendio clarified if Deputy Corporation Counsel Kawauchi was asking the Committee to approve the proposal as is and send it to legal and they would review the proposal. Deputy Corporation Counsel Kawauchi responded in the affirmative.

ACTION:

Commissioner Lendio moved to approve Proposal 27. Commissioner Mikulina seconded that motion. Discussion followed.

Chair Kawashima noted there was an issue raised by the Charter Commission staff regarding stylistic changes. He noted one of the comments was should the Commission make the proposal look more stylistically like the rest of the Charter? The point was made that stylistically it doesn't fit with how the charter looks now. The other issue raised is with respect to part two first paragraph last sentence "The commission shall set the salary of the administrator". Chair Kawashima asked Corporation Counsel to comment. He noted that the point that Researcher Nikki Love pointed out is that this seems to be unusual that the Commission would set the salary for the administrator versus it being set by the Salary Commission or by ordinance. Deputy Corporation Counsel Kawauchi responded she thinks there is precedence for that with respect to the Ethics Commission Administrator and needs to check on that. Chair Kawashima asked Researcher Love if she had done research relating to her concerns. Executive Administrator Narikiyo noted he recalls the Ethics Commission Director's salary in the Charter is set by ordinance. Researcher Love noted it is on page 76 of the Charter. She commented that style is done in paragraph form, but this proposal is done with the numbers and the letters and wanted to point that out as an issue. Deputy Corporation Counsel Kawauchi stated she would confirm that she would concur that the Commission should format it like other provisions of the charter. Commissioner Lendio clarified that it would just be the first paragraph and then a, b; second paragraph without the number

two and subsequent so they would take out the numbers? Researcher Love stated she agrees but it could also be reworked to mirror another section. Commissioner Lendio stated that Researcher Love has to make the recommendation specifically to the Committee so she could make the decision today. Commissioner Lendio noted also in Section three Section 16-, the transition paragraph should just be in various paragraphs or it should be a, b, c. Researcher Love responded that she did not look at that part in detail but if that's the only part separately maybe that should be left separate. Deputy Corporation Counsel Kawauchi commented she believes the transition would be numbered. But the text would be to delete the numbering and subparagraph a or b, is that what's being moved? Commissioner Lendio asked if it was in Section 6-207? Researcher Love responded that she was looking in the Ethics Commission section and it's written separately. Commissioner Lendio asked Researcher Love if that was what she was recommending. Researcher Love responded she would not want to make any recommendations. She commented it would be very different from its current form. Commissioner Lendio stated it would be in narrative paragraph form versus the numerical form. Researcher Love responded yes. Researcher Love noted there are also some other provisions in the Ethics Commission section and that is an example of something that is not in the current proposal. Commissioner Lendio asked Researcher Love if she was proposing additional language to the section? Commissioner Lendio stated without something they could look at it would be hard for the Committee to abstractly trying to approve things and asked Researcher Love what are her recommendations. Executive Administrator Narikiyo responded it's true that the Ethics Commission paragraph does not have numbers and letters. Commissioner Lendio responded yes and that stylistically she's recommending the Committee be consistent but she's also recommending that they have consistent language or mirrored language between the Ethics Commission and the Liquor Commission section. Commissioner Lendio asked if so where do they put this? Researcher Love responded it would still be the same place but it's a matter of rewording the sentences. Commissioner Lendio asked Corporation Counsel if they understood Researcher Love's recommendations. Deputy Corporation Counsel Kawauchi responded stylistically yes but with respect to the comment about being subject to section 13-114 of the charter, she noted she hasn't researched that issue. Deputy Corporation Counsel Kawauchi noted the Liquor Commission is created pursuant to State law. There's a county Liquor Commission in each of the counties and thinks the charter only needs to establish this generally in the Honolulu City Charter and beyond that would defer to HRS. Deputy Corporation Counsel Spurlin commented if the Committee believes that type of language needs to be in the Corporation Counsel would need to research whether it would be preempted or not. Commissioner Lendio asked Researcher Love if she feels it's essential for the Committee to change some language. Researcher Love responded that it is not, but just wanted to advise the Committee.

Commissioner Lendio commented she would accept the removal of the numerical designation one and two in Section 6-207 as a friendly amendment to her motion and have Corporation Counsel to give the Committee a legal opinion to the transitional language in the new Section 16.

Commissioner Takaki asked Corporation Counsel if it was necessary to have Section 16 to spell out the transition to be included in the charter? Would it be Corporation Counsel's recommendation to have the transition section be put into the charter and

voted on? Deputy Corporation Counsel Kawauchi responded she's inclined to think that it should be there but they would research that more and give a definitive response to the Committee. Commissioner Takaki then asked Corporation Counsel who currently sets the salary for the Administrator and First Deputy? Deputy Corporation Counsel Kawauchi responded it's a civil service position and would be based on the position description and the classification. Commissioner Takaki then asked if they were to put who sets these two salaries would be a substantive change as the issue was raised earlier? Deputy Corporation Counsel Kawauchi responded yes. Commissioner Lendio commented with respect to the transition language that Commission Takaki brought up that the Commissioners has already approved that language and would feel uncomfortable if they were to delete that language at this point.

Deputy Corporation Counsel Kawauchi commented they way she understands the legal review that takes place hereafter if there are legal concerns whether they are substantive or not, she understands the Commission would entertain them. Commissioner Lendio responded yes. Deputy Corporation Counsel Kawauchi noted each of the provisions would need an effective date.

AYES: KAWASHIMA, TAKAKI, MIKULINA, LENDIO - 4
NOES: NONE
EXCUSED: COFFEE, PACOPAC, TOM - 3

MOTION PASSED

PROPOSAL 28 - Ethics Commission; Allow the Ethics Commission to impose civil fines.

The following individuals testified:

1. Tom Heinrich

Written testimony:

NONE

Tom Heinrich commented his concerns to the proposed amendment to paragraph two of Section 11-107. He suggests that the Committee consider to make the statement match the subsequent sentences that deals with officers and employees. Mr. Heinrich stated the first sentence that is underlined is dealing with elected officials, the second sentence which is already part of the charter that is dealing with officers and employees. His changes would be under Section 11-107, delete "for conducts found by the commission to be in violation of the standards of conduct of this article and additional standards of conduct established by ordinance. The commission shall recommend appropriate disciplinary action against officer and employees". The new section would read; "The commission may impose civil fines, established by ordinance, against elected officials of the city found to have violated the standards of conduct established by this article of the charter or by ordinance. The commission shall recommend appropriate disciplinary action against officers and employees found to have violated the stands of conduct established by this article of the charter o r by ordinance. The appointing authority shall promptly notify the commission of the action taken on the recommendation."

Commissioner Lendio asked Mr. Heinrich's to clarify his proposal. Mr. Heinrich read his written proposal (**Attachment A**).

Commissioner Takaki asked Corporation Counsel what are their thoughts on the proposals? Deputy Corporation Counsel Sunakoda stated they still have concerns based upon the definitional problems and in looking through the various charter provisions, elected officials although she appreciate some understand that in common parlance. She looked in Section 13-116 and 13-101, their concern is in terms of consistency and the term or concept elected official is not found or defined anywhere in the existing language or any of the provisions of the charter and would be an issue the commission may want to address. Commissioner Lendio clarified that the Corporation Counsel would bring that up in the legal review. Deputy Corporation Counsel Sunakoda responded yes. Commissioner Lendio then asked Corporation Counsel about Mr. Heinrich's recommendations, if his language is clearer. Deputy Corporation Counsel Sunakoda responded they don't have a problem with that. Commissioner Lendio then asked if they feel it is non-substantive enough for them to change it even though the Charter Commission already approved the particular language. She feels they should not change the language as much as possible because the Commission already approved it but if they feel they should change stylistically then they should do it. Deputy Corporation Counsel Kawauchi responded that her understanding is the Charter Commission would look at the imposition of the finds in the same circumstances as the imposition for disciplinary action. She explained that is there is a finding of a violation in the standards of conduct either in the charter or the ordinance. Deputy Corporation Counsel Kawauchi stated the proposed stylistic recommendations is to conform the two clauses so there won't be any interpretation or construction problems some time in the future. With that in mind she would recommend the stylistic revision.

ACTION:

Commissioner Lendio moved to approve Proposal 28 with the following amendment, which the Corporation Counsel deems to be non-substantive, and in fact makes the language clearer and consistent with the existing language. Section 11-107 would read as follows:

"The commission may impose civil fines, established by ordinance, against elected officials of the city found to have violated the standards of conduct established by this article of the charter or by ordinance." Commissioner Lendio goes on to say to delete the section "for conduct..." all the way up until before "commission" and after the word "ordinance" and the rest shall remain in tact. Commissioner Mikulina seconded that motion. No discussion followed.

AYES: KAWASHIMA, TAKAKI, MIKULINA, LENDIO - 4
NOES: NONE
EXCUSED: COFFEE, PACOPAC, TOM

MOTION PASSED

PROPOSAL 33 - Department of Emergency Services; Revise the Powers, Duties and Functions of the Director and the Department.

The following individuals testified:

NONE

Written testimony:

NONE

Deputy Corporation Counsel Spurlin raised concerns and passed out two handouts relating to Proposal 33 and 36. (**Attachment B and C**) Deputy Corporation Counsel Spurlin advised the Committee she contacted two respected agencies because she had a hard time understanding what they are trying to accomplish with the language. The language regarding pre-hospital medical resource because it was her understanding that the Commission thought that meant they were the primary responders but that's not what it is. Emergency Services is saying they wanted the Charter to state that they handle all medical or health related questions. Deputy Corporation Counsel Spurlin asked EMS to explain what primary pre-hospital medical resource meant as stated in the proposal. EMS responded if anyone calls regarding any health issue EMS would like it to be known they are the agency responsible. Deputy Corporation Counsel Spurlin also checked with Ocean Safety why they put in the primary resource for Ocean Safety and their response is because they want to be the primary provider of Ocean Safety Services. Deputy Corporation Counsel Spurlin responded to Ocean Safety and EMS is that what's proposed and what the intent is, is not consistent. Deputy Corporation Counsel Spurlin commented she knows there are some questions regarding primary, secondary, co-responding and grant monies. Deputy Corporation Counsel Spurlin told the Committee she had revised Proposals 33 and 36 based upon the intent of the party and what the practice is. She noted her proposed revisions are substantive but feels it's necessary because she has a hard time understanding the current provision and feels if she has problems understanding the provision now, the two agencies will change in the future and will not have the same staff that will say they are will work with each other. For these reasons she made these changes and knows some Committee members may object to these changes. Deputy Corporation Counsel Spurlin goes on to say this is what she felt comfortable as far as drafting and implementation purposes. She noted she tried to address their concern about grant funding because they wanted their duties specified in the charter so they could get grant monies. Deputy Corporation Counsel Spurlin stated EMS went full circle because originally they were the Department of Health and changed to Emergency Services. When they were the Department of Health they handled all health questions coming into the City. In 1973 they changed to Emergency Medical and now today they are saying they are back to where they were and that's why they put it in. Deputy Corporation Counsel Spurlin stated she wanted the committee to know these are her concerns and her handout is her suggestions. Commissioner Takaki asked Deputy Corporation Counsel Spurlin if both departments were okay with her proposed language? Deputy Corporation Counsel Spurlin responded she has not been able to get in touch with the Fire Department yet. Commissioner Takaki for their process, if they were to accept her revised proposed revisions today, they would still have the opportunity in their June meeting for the Fire Department to come before the Committee to testify or the Committee could leave the language as currently proposed and in the meantime to contact the Fire Department.

Commissioner Lendio asked Corporation Counsel if they would be violating their rules by doing a substantive amendment with only four Committee members. She noted the Commission had a lengthy discussion regarding primary responder. Deputy Corporation Counsel Spurlin responded she understand Commissioner Lendio's comment regarding the Commission's discussion. Commissioner Lendio goes on to say they voted on it because they didn't want to amend the proposal and just want the proposal to be moved as is. Deputy Corporation Counsel Spurlin replied she agreed with Commissioner Lendio but as the attorney for the Committee she is not comfortable with the language and felt she has a duty to advise the Committee. Commissioner Lendio responded yes and commented that Corporation Counsel could let the Committee know through their legal review. Deputy Corporation Counsel Spurlin replied yes but wanted to advise the Committee in advance. Commissioner Lendio stated procedurally her opinion to approve what the Charter Commission approved and send it to legal reviews with their concerns and have the full Charter Commission vote on whether or not Deputy Corporation Counsel Spurlin's proposed amendment should stand or not as she does not feel comfortable with the Committee making a decision with only four Committee members with such substantive changes. Commissioner Takaki commented that if Deputy Corporation Counsel Spurlin had met with the Fire Department prior to the meeting, he would feel more comfortable with making the change because the Committee would be taking their report back to the full Commission and feels the full Commission would respect their judgment in the Committee meeting. But because she did not meet with the Fire Department, he's not comfortable. Commissioner Lendio expressed her concerns regarding the decision as the full Commission had a lengthy discussion and decided not to have a subsequent meeting to make that change and voted on the proposed language as is. Commissioner Lendio goes on to say because it's on record that they discuss that particular change and now the Committee is going to change it, she's not sure what the vote was. Commissioner Takaki replied he doesn't recall either, but the Commissioner understood the proposals were going to the Style Committee and the Style Committee would go back to the full Commission who would then have the opportunity to reject the Style Committee's recommendations. He feels because Corporation Counsel has not met with the Fire Department he suggest the Committee waits until the Corporation Counsel has the opportunity to meet with the Fire Department and at this point made by Commissioner Lendio to pass the proposal forward as is. Commissioner Takaki commented they appreciate the comments being made by Deputy Corporation Counsel Spurlin and ask that Corporation Counsel contact the Fire Department and get their comments.

Chair Kawashima clarified with Deputy Corporation Counsel Spurlin's concern is regarding the current proposed text is too vague? Deputy Corporation Counsel Spurlin responded it's the vagueness and implementation concerns. Commissioner Mikulina noted while he appreciates the clarity of Corporation Counsel's proposed language he would agree with Commissioner Lendio's concerns.

ACTION:

Commissioner Lendio moved to approve the existing text to Proposal 33 with the reference to Corporation Counsel for suggested changes after their legal review. Commissioner Takaki seconded that motion. No discussion followed.

AYES: KAWASHIMA, TAKAKI, MIKULINA, LENDIO - 4
NOES: NONE
EXCUSED: COFFEE, PACOPAC, TOM

MOTION PASSED

PROPOSAL 34 - Budget; Administration and enforcement of the executive capital budget ordinance -- lapse in 12 rather than 6 months.

The following individuals testified:
NONE

Written testimony:
NONE

ACTION:

Commissioner Lendio moved to approve the language of Proposal 34. Commissioner Mikulina seconded that motion. Discussion followed.

Commissioner Takaki asked Corporation Counsel if this proposal could be considered a housekeeping amendment? Deputy Corporation Counsel Kawauchi responded no.

AYES: KAWASHIMA, TAKAKI, MIKULINA, LENDIO - 4
NOES: NONE
EXCUSED: COFFEE, PACOPAC, TOM

MOTION PASSED

PROPOSAL 35 - Department of Information Technology; Revise the Powers, Duties and Functions of the Director.

The following individuals testified:
NONE

Written testimony:
NONE

Deputy Corporation Counsel Spurlin commented the Deputy Director of the Corporation Counsel spoke the Director of the Department of Information Technology because there were some inconsistencies in the language and had recommended in paragraph "A" to delete "executive and legislative branches of". Deputy Corporation Counsel Spurlin stated she did legislative research; the department is tasked to provided services to the city government both branches and this issue came up in 1973 because the original language said "both branches of city government" and the Charter Commission deleted "both branches" because city government is both branches so it's redundant. The other

change is recommending adding the word information after the word information in subsection "B" and adding the word technology after the word telecommunication in subsection "B, C and D" because she believes that is the correct phrase DIT uses. She noted sometimes they put the word in and sometimes they didn't because they didn't understand the term information technology and telecommunication, they sought clarification from to assure they were using the correct language in the industry. Chair Kawashima clarified Deputy Corporation Counsel Spurlin's recommendations.

ACTION:

Commissioner Takaki moved to approve with the changes as suggested by the Corporation Counsel in Proposal 35. Commissioner Lendio seconded that motion. No discussion followed.

AYES: KAWASHIMA, TAKAKI, MIKULINA, LENDIO - 4
NOES: NONE
EXCUSED: COFFEE, PACOPAC, TOM

MOTION PASSED

PROPOSAL 36 - Fire Chief; Revise the Powers, Duties and Functions of the Fire Chief and the Fire Department.

The following individuals testified:
NONE

Written testimony:
NONE

Deputy Corporation Counsel Spurlin commented she provided the Committee proposed substantive language changes that the Committee has asked that Corporation Counsel to meet with the Fire Department regarding the Corporation Counsel's proposed language change and clarity.

ACTION:

Commissioner Lendio moved to approve Proposal 36 pending the legal review by Corporation Counsel consistent with the comments made earlier in Proposal 33. Commissioner Takaki seconded that motion. No discussion followed.

AYES: KAWASHIMA, TAKAKI, MIKULINA, LENDIO - 4
NOES: NONE
EXCUSED: COFFEE, PACOPAC, TOM

MOTION PASSED

PROPOSAL 51 - Department of Customer Services; Include the Director of Customer Services as a department head who must be nominated by the Mayor, with the advice and consent of the Council, and may be removed by the Mayor.

The following individuals testified:
NONE

Written testimony:
NONE

Deputy Corporation Counsel Kawauchi noted this is a housekeeping matter.

ACTION:

Commissioner Lendio moved to approve the language of Proposal 51. Commissioner Takaki seconded that motion. No discussion followed.

AYES: KAWASHIMA, TAKAKI, MIKULINA, LENDIO - 4
NOES: NONE
EXCUSED: COFFEE, PACOPAC, TOM

MOTION PASSED

Chair Kawashima asked to take a 5-minute recess. Commissioner Takaki moved to take a 5-minute recess, Commissioner Mikulina seconded that motion.

***RECESS at 5:19 p.m.

***RECONVENE at 5:26 p.m.

PROPOSAL 55 - Term Limits and Staggered Terms; Re term limits and staggered terms for Councilmembers.

The following individuals testified:
NONE

Written testimony:
NONE

Commissioner Lendio passed out a handwritten proposal (**Attachment D**) to the Committee members present. After she reviewed the Corporation Counsels draft language for Proposal 55 as attached to the agenda, she felt it was too legalistic and drafted two scenarios; one scenario for no term limits no staggering because she's giving them in both scenarios the opportunity to do away with staggering in light of the reapportionment issue and the second scenario for three term limits with no staggering.

She noted she tried to be consistent with Corporation Counsel set up the language in Section 16-122, paragraph three is actually paragraph one and just tried to simplify the language. Commissioner Lendio read her proposed amendments.

ACTION:

Commissioner Lendio moved to make the stylistic changes to Proposal 55 because she feels it's a lot simpler and easier to understand with the idea that this would be forwarded to Corporation for their review because she's not sure if she captured all the options that could occur of the time between 2006 and 2011 and she'd like to make sure that she has. Commissioner Takaki seconded that motion. Discussion followed.

Commissioner Mikulina expressed his concern with Commissioner Lendio's proposed second no stagger, three term limits part four, that what has already happened won't be applied to the three year term limit so potentially someone could have five terms. Commissioner Lendio stated its perspective application. Commissioner Mikulina noted if they change it from two term limits to three term limits, they are opening a loophole where someone could have five terms. Commissioner Lendio stated she believes that also could be contested on legal grounds but she doesn't believe under the law that unless you specifically make a law retroactive then you can get retroactive application and even if they do try to carve out to do some sort of retroactive application she doesn't know if it would stand and deferred to Corporation Counsel for their opinion. Deputy Corporation Counsel Spurlin stated she did some quick research and legally it's defensible. She noted it's retroactive if you have a right to that office and an elected official does not have a legal right to hold office so they would not be losing anything. Commissioner Mikulina asked Corporation Counsel if it would be possible to simply say for those who have completed two terms, they are entitled to one additional term out of the three-term limit. Deputy Corporation Counsel Spurlin responded she thinks that's an issue the Commission has not decided whether to make it retro in the common language sense of retro or perspective, she thinks it was never determined. Deputy Corporation Counsel Spurlin noted it's been on the table for discussion between Commissioner Lendio and Commissioner Tom but there has been no decision. Commissioner Lendio asked Corporation Counsel if they would be able to provide the Committee with those opinions under their legal review. Commissioner Lendio noted she drafted her proposed amended language from the Corporation Counsel's proposed language under paragraph 6. Commissioner Takaki noted that to his recollection it was never clearly said but he is comfortable with putting Commissioner Lendio suggested proposed amendment because the full Commission as well as Corporation Counsel would have time to come back and make comments. Commissioner Lendio stated the Committee would have to make a decision at some point and would like to do it after they receive Corporation Counsel's legal review Comments. She goes on to say the full Commission should decide and not just the Committee on Style with 4 members. Commissioner Mikulina asked Commissioner Lendio regarding no term limits in subsection 3 regarding those who made the election for those districts shall be subject to two-year terms? Commissioner Lendio clarified to clear the slate for 2010 when all districts need to run at the same time.

AYES: KAWASHIMA, TAKAKI, MIKULINA, LENDIO - 4
NOES: NONE
EXCUSED: COFFEE, PACOPAC, TOM

MOTION PASSED

PROPOSAL 71 - Department of Environmental Services; Comprehensive curbside recycling program.

The following individuals testified:
NONE

Written testimony:
NONE

Deputy Corporation Counsel Spurlin suggested deleting the word “comprehensive”. She noted the bottom line is it’s either curbside recycling or it’s not. Commissioner Lendio stated the Corporation Counsel could give their concerns to the Charter Commission doing their legal review.

ACTION:

Commissioner Lendio moved to approve the language of Proposal 71. Commissioner Mikulina seconded that motion. No discussion followed.

AYES: KAWASHIMA, TAKAKI, MIKULINA, LENDIO - 4
NOES: NONE
EXCUSED: COFFEE, PACOPAC, TOM

MOTION PASSED

PROPOSAL 75 – Ethics Commission; Include the prohibition against Ethics Commissioners taking an active part in political management or political campaigns set forth in the Hawaii Constitution Article XIV.

The following individuals testified:
NONE

Written testimony:
NONE

Deputy Corporation Counsel Kawauchi noted Corporation Counsel submitted this proposal as a housekeeping item to clarify the prohibition on political activities is a constitutional provision.

Executive Administrator Narikiyo stated he was asked by a member of the public before he left to raise the question, is the first clause that says "In accordance with the prohibition in Hawaii Constitution Article XIV"? Deputy Corporation Counsel Kawauchi responded the Corporation Counsel's proposal was to indicate the source of that prohibition.

ACTION:

Commissioner Lendio moved to approve the language of Proposal 75. Commissioner Mikulina seconded that motion. No discussion followed.

AYES: KAWASHIMA, TAKAKI, MIKULINA, LENDIO - 4
NOES: NONE
EXCUSED: COFFEE, PACOPAC, TOM

MOTION PASSED

PROPOSAL 76 – Police; Delete prohibition of political activities by police department employees.

The following individuals testified:
NONE

Written testimony:
NONE

Deputy Corporation Counsel Kawauchi noted that Corporation Counsel submitted this as a housekeeping item, the prohibition was ruled unconstitutional and they would like to have that clause removed from the charter.

ACTION:

Commissioner Lendio moved to approve the proposal. Commissioner Mikulina seconded that motion. No discussion followed.

AYES: KAWASHIMA, TAKAKI, MIKULINA, LENDIO - 4
NOES: NONE
EXCUSED: COFFEE, PACOPAC, TOM

MOTION PASSED

PROPOSAL 78 – Civil Defense Agency; Delete the reference to Civil Defense Agency in "Appointment, Confirmation and Removal of Officers and Employees".

The following individuals testified:
NONE

Written testimony:
NONE

Deputy Corporation Counsel Kawauchi noted this is another Corporation Counsel recommendation to have the appointment of the Civil Defense Agency Administration removed from that section of the charter that deals with confirmation by the Council as this is a civil service position and confirmation by the Council is not appropriate.

ACTION:

Commissioner Lendio moved to approve the text of Proposal 78. Commissioner Mikulina seconded that motion. No discussion followed.

AYES: KAWASHIMA, TAKAKI, MIKULINA, LENDIO - 4
NOES: NONE
EXCUSED: COFFEE, PACOPAC, TOM

MOTION PASSED

PROPOSAL 91 - Property Taxes and New Fund; Set aside one-half percent (1/2%) of real property tax revenues for land and natural resources protection and one-half percent (1/2%) of real property tax revenues for affordable housing.

The following individuals testified:
NONE

Written testimony:
NONE

Deputy Corporation Counsel Kawauchi stated she does not have substitute language for the Committee today but noted the language needs to be revised that reference a "certified real property tax revenue" because there is no such thing. She goes on to say she thinks the Commission is clear on what the intent is by the language and Corporation Counsel will be proposing alternate language. Deputy Corporation Counsel Kawauchi explained it would have some indication of what the revenues are at the time the City Council is adopting the budget and understands that's what it is and want to know what that amount is and 1% of that amount is going to be diverted to this fund. Chair Kawashima clarified with Deputy Corporation Counsel Kawauchi that they will be coming out with recommendations regarding the phraseology she specified above.

Commissioner Mikulina in his opinion thought it was a projection in the budget instead just actual property tax collected, the revenue itself – 1% of the property tax revenue? Deputy Corporation Counsel Kawauchi replied that's correct. She goes on to say the amount of the revenue is going to be based on what the tax rates are and that's not done

until the finalization of the budget on June 15. Deputy Corporation Counsel Kawauchi stated up until that point and time it would be a projection based on whose real property tax? Would it be the Council's or would it be the Administration? The Administration sets down their proposed tax rates on March 1. She noted in her mind it's clear what the Commission wants.

Chair Kawashima commented there were stylistic questions raised by the Charter Commission staff such as in section one, is it necessary to keep the phrase "As directed by the citizens of Honolulu"? The second is whether terms "Clean Water, Natural Lands and Affordable Housing Fund", reference to the "Council" in section 7 whether that needs to be capitalized or not? In paragraph four the reference to "Revised Charter"? He asked Corporation Counsel if they could comment on these concerns. Deputy Corporation Counsel Kawauchi replied the clause in paragraph one should be deleted. The references to the "city and county of Honolulu", she doesn't feel that is necessary either. She also agreed that "Revised Charter" should also be deleted. Commissioner Lendio asked if the Corporation Counsel would like to make those recommendations in their review. Deputy Corporation Counsel Spurlin responded yes it would be better to do all the changes at the same time.

ACTION:

Commissioner Lendio moved to accept the language of Proposal 91 as is upon legal review by the Corporation Counsel and that Corporation Counsel address the specific issue that was brought up in today's meeting. Commissioner Takaki seconded that motion. Discussion followed.

Commissioner Mikulina commented as the stylistic committee, he would like to make the stylistic amendments if they know the clauses could be removed and leave the legal issues for a later time after the legal review. Commissioner Lendio stated she takes that as a friendly amendment and asked Commissioner Mikulina to specify which stylistic changes he would like to make. Commissioner Mikulina replied in section one, "As directed by the citizens of Honolulu", in section two, "in the city and county of Honolulu", and section four "Revised Charter". Commissioner Lendio clarified with Corporation Counsel in section seven if the word "Council" is capitalized? Deputy Corporation Counsel Kawauchi responded it should be lower case. Deputy Corporation Counsel Spurlin noted paragraph three has "city and county of Honolulu". Commissioner Lendio stated she takes all the stylistic changes stated above as friendly amendments. Deputy Corporation Counsel Spurlin clarified in paragraph three the reference to "city and county of Honolulu" to delete the words "and county of Honolulu". Commissioner Lendio asked to clarify if the standards would be the same for paragraph two and Deputy Corporation Counsel Spurlin replied yes.

AYES: KAWASHIMA, TAKAKI, MIKULINA, LENDIO - 4
NOES: NONE
EXCUSED: COFFEE, PACOPAC, TOM

MOTION PASSED

PROPOSAL S-6 - Petitions; Delete requirement of Social Security numbers on petitions.

The following individuals testified:
NONE

Written testimony:
NONE

Deputy Corporation Counsel Kawauchi stated no comments and believes the City Clerk proposed this due to legal concerns about providing Social Security numbers and identity theft.

ACTION:

Commissioner Lendio moved to approve the language of Proposal S-6. Commissioner Mikulina seconded that motion. Discussion followed.

Chair Takaki asked Corporation Counsel if this proposal could be considered a housekeeping amendment? Corporation Counsel responded yes.

AYES: KAWASHIMA, TAKAKI, MIKULINA, LENDIO
NOES: NONE
EXCUSED: COFFEE, PACOPAC, TOM

MOTION PASSED

PROPOSAL S-9 - Department of Transportation Services - Revise Powers, Duties and Functions; Promote pedestrian- and bicycle-friendly city

The following individuals testified:
NONE

Written testimony:
NONE

Deputy Corporation Counsel Kawauchi commented they have a concern with the word priority and has shared this concern earlier with the Commission that it would be difficult to quantify.

ACTION:

Commissioner Lendio moved to approve language of Proposal S-9. Commissioner Mikulina seconded that motion. Discussion followed.

Commissioner Mikulina asked for clarification of the Section numbering change. Researcher Nikki Love responded she wanted to standardize new proposed charter sections and asked for Corporation Counsel's assistance because she wasn't sure about the numbering convention. Deputy Corporation Counsel Sunakoda responded that was

true for ordinance revisions but would check on it and report back to the Commission. Deputy Corporation Counsel Kawauchi clarified it probably be "Section 6-____" with an indication that it should be in Article 6 chapter 17.

AYES: KAWASHIMA, TAKAKI, MIKULINA, LENDIO - 4
NOES: NONE
EXCUSED: COFFEE, PACOPAC, TOM

MOTION PASSED

PROPOSAL S-10 - Public notices; Distribution of public notices via a widely accessible electronic medium.

The following individuals testified:
NONE

Written testimony:
NONE

Deputy Corporation Counsel Spurlin stated it has come to their attention that there might be a preemption problem. She stated the proposal could be revised to address the problem. There is a Statute 1-28.5 that governs public notices and there's a specific provision regarding computer system notices, it reads "additional supplemental notice may also be given through Hawaii FYI the state's interactive computer system". She noted one way to get around this potential problem would be to include the word "through" before the word "electronic medium" and delete the phrase "via a widely accessible" and "(e.g. the city website)". The word "via" is not used in the charter and the use of e.g. is not used in the charter and it's not consistent. Deputy Corporation Counsel Spurlin noted her position is to not put the Hawaii FYI in the charter because should they change the statute and they put another medium, the charter would have to be changed again. As long as the charter says the electronic medium which would be the City's website. Chair Kawashima asked Deputy Corporation Counsel Spurlin to clarify her suggested proposed language changes. Deputy Corporation Counsel Spurlin responded the sentence should read, "distributed through an electronic medium within the same timeframe as the newspaper publication. Executive Administrator Narikiyo clarified to delete the parenthetical and the "via a widely accessible". Commissioner Mikulina commented that was the point. He asked Deputy Corporation Counsel Spurlin if the Hawaii FYI was not widely accessible and why she proposed to delete widely accessible. Deputy Corporation Counsel Spurlin responded it goes back to her analysis about comprehensive.

ACTION:

Commissioner Lendio moved to approve the language of Proposal S-10 and await the opinion by Corporation Counsel. Commissioner Mikulina seconded that motion. No discussion followed.

AYES: KAWASHIMA, TAKAKI, MIKULINA, LENDIO - 4

NOES: NONE
EXCUSED: COFFEE, PACOPAC, TOM

MOTION PASSED

4. Combination of Proposed Charter Amendments for Purposes of the Ballot

a. Housekeeping

Proposals 35, 51, 75, 76, 78, S-6, S-10 and other proposals. See above descriptions.

Commissioner Takaki commented he'd prefer to see two groups as opposed to one but if the Committee would like to combine all seven he would not be opposed to that also. Chair Kawashima asked Commissioner Takaki if he had a suggestion on which proposals he would like to group together. Commissioner Takaki responded Proposals 35, S-10 and S-6 in one group and Proposals 21, 75, 76 and 78 in another group. Chair Kawashima asked what would be the purpose of splitting them into two separate questions? Commissioner Lendio commented how confident is the committee with combining all seven proposals into one question? Commissioner Takaki responded not that confident, but on the other hand if the ballot question does fail that in the Commission's final report they recommend the 7 proposals be sent to the City Council to have these ballot questions for the 2008 election.

Deputy Corporation Counsel Spurlin commented it would depend on what the digest says and how it is presented so the voter would understand it's merely housekeeping and it's not a problem passing them all through.

ACTION:

Commissioner Lendio moved to combine Proposals 35, 51, 75, 76, 78, S-6 and S-10 as a housekeeping proposal. Commissioner Mikulina seconded that motion. No discussion followed.

AYES: KAWASHIMA, TAKAKI, MIKULINA, LENDIO - 4
NOES: NONE
EXCUSED: COFFEE, PACOPAC, TOM

MOTION PASSED

b. Department Descriptions

Proposal 33, 36 and other proposals. See above descriptions.

Executive Administrator Narikiyo noted Committee member Tom asked that this be put on the agenda for consideration because he felt these two proposals related to one another and perhaps could be combined and wanted that to be discussed. Commissioner Lendio stated she'd like to wait for Corporation Counsel's analysis and

then to ask the affected departments on whether or not they feel being combined would assist them in their quest or not be helpful to their cause. Commissioners Mikulina and Takaki would also like to wait.

ACTION:

Commissioner Lendio moved to defer item 4b on the agenda and not take action on the item and await the review by Corporation Counsel. Commissioner Takaki seconded that motion. No discussion followed.

AYES: KAWASHIMA, TAKAKI, MIKULINA, LENDIO - 4
NOES: NONE
EXCUSED: COFFEE, PACOPAC, TOM

MOTION PASSED

5. Announcements - NONE

6. Next Meetings

Executive Administrator Narikiyo discussed the next meeting that had been previously discussed for June 6. There are a few conflicts and checked the schedule of the Committee members present to see if they are available for June 7. Commissioner Takaki clarified the purpose of the June 6 or June 7 meeting would be for discussion and action from the full Commission regarding the results from the Style Committee's meeting. Executive Administrator Narikiyo replied yes. He also stated they would be going over the roles of the different committees and committee assignment. Commissioner Takaki clarified that for the Style Committee that after the June 6 or June 7 meeting, the proposals would go to the Corporation Counsel for comment and would go back to the Style Committee with their legal comments for their review and to vote upon before sending it back to the full Commission in July. Executive Administrator Narikiyo replied he assumes that Corporation Counsel is aware that the Commission wants them to continue and to complete their review before the July meeting for the Style Committee. Commissioner Takaki stated he wanted to check if was okay with the members of the Style Committee with the intent for Corporation Counsel to give the Style Committee their legal comments and recommendations in June. Then the Style Committee would decide how they would decide how they would want to recommend to the full Commission. Executive Administrator Narikiyo asked Corporation Counsel if they would be able to complete their review in one month? Corporation Counsel responded it is doable.

Deputy Corporation Counsel Kawauchi asked for clarification on what legal review would be expected by the Style Committee for the next Commission meeting? She asked if comments would be withheld until the next Committee meeting? Commissioner Takaki responded the Corporation Counsel could make comments in the June meeting however, the Style Committee would be expected to have what the list is going to be in their late June meeting when the Corporation Counsel's

comments and recommendations would be due. Commissioner Takaki goes on to say during the June meeting, the Style Committee would make the decisions to take back to the full Commission in July for the final approval. Executive Administrator Narikiyo noted at the next full Commission meeting there would be a Style Committee report, which will encompass and go over the issues raised and additional discussion may take place.

Commissioner Mikulina asked when would they work on the digest and the order of the ballot questions? Executive Administrator Narikiyo replied the public education materials under the calendar that was approved in conjunction with the rules, contemplate the digest and the Submission and Information Committee would do the voter education things.

7. Adjournment

Meeting adjourned by Commissioner Lendio, seconded by Commissioner Mikulina at 6:06 p.m.